IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

CRP.No. 685 of 2007()

OP(EA).380/2002 of ADDL.D.C. & ADDL.DISTRICTCOURT,ALAPPUZHA.
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REVN. PETITIONER: 1ST RESPONDENT;

MANAGING DIRECTOR, POWER GRID CORPORATION OF INDIA LTD., NANGIARKULANGARA P.O., HARIPAD.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS: PETITIONER:

J.LEELAMMA, MANATHU VILAYIL, EREZHA SOUTH, CHETTIKULANGARA.

BY ADV. SRI.K.SASIKUMAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P.No. 685 OF 2007

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Dated this the 10th day of December 2007

ORDER

This revision petition is preferred against the order of the Addl.District Judge, Alappuzha in O.P.(EA)No.380 of 2002 whereby the Addl.District Judge has awarded an additional compensation of Rs.95,290/- with 6% interest. Learned counsel for the petitioner has brought to my notice that the court has fixed the compensation solely relying on the decision reported in Kumba Amma v. KSEB(2000(1) KLT 542). He would submit that in the light of the decision of the Apex Court in KSEB v. Livisha(2007(3) KLT 1(SC) each case has to be considered on the merits of that case and the facts available therein. The Apex Court held as follows:

> The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be terminative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which

> the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case".

2. In the light of the above said decision, the matter requires reconsideration and for which additional particulars may be necessary. Therefore the order under challenge is set aside and the matter is remitted back to the court below for fresh consideration by permitting the parties to adduce both documentary and oral evidence in support of their contentions and dispose of the matter on the basis of the enunciated principles laid down in 2007(3) KLT 1 (SC). Parties are directed to appear before the court below on 21.1.2008.

C.R.P. is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-